

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Karl-Friedrich Laible et al.
Application Number: 10/791,550
Filing Date: March 1, 2004
Group Art Unit: 3637
Examiner: Hanh Van Tran
Title: FOAM-FILLED HOLLOW BODY AND METHOD FOR
PREVENTING FOAM FROM DISCHARGING THROUGH
AN OPENING OF A HOLLOW BODY TO BE FOAM-FILLED

Mail Stop – Appeal Brief - Patents

Commissioner for Patents
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REPLY BRIEF

In further support of the Appellants' Appeal of the final rejections in the above-identified application, Appellants submit the following comments.

Initially, Appellants acknowledge with appreciation the indication that the rejection of claims 31 and 37 have been withdrawn.

I. Claims 30, 32 and 33

Claims 30, 32 and 33 are rejected under 35 USC §103(a) over Saunders, in view of Anell, and further in view of Ueda and Carey Jr.

Claim 30 recites a destructible layer positioned between a reinforcing plate and an outer wall of a foam-filled hollow body, wherein the destructible layer is formed of a substantially incompressible material.

The Examiner's Answer Brief again acknowledges that neither Saunders nor Anell disclose or suggest the use of a destructible layer positioned between a reinforcing plate and an outer wall of a foam filled hollow body. However, the Examiner argues that both Ueda and Carey Jr. disclose the use of a "destructible layer" to cover apertures in a foam-filled hollow body. Applicants again respectfully disagree.

At numerous points in the Examiner's Answer Brief, the Examiner refers to the sponge rubber layer 51 disclosed in Ueda as a "destructible layer." As explained in Appellants' Appeal Brief, the sponge rubber layer 51 of Ueda is not a "destructible" layer. Instead, Ueda's sponge rubber layer 51 is intended to be highly elastic and to deform, not break. The rather large amount of deformation that the sponge rubber layer 51 is intended to provide, without breaking, is illustrated in Figure 22 of Ueda. Because Ueda's sponge rubber layer 51 is highly elastic and is not intended to be broken or pierced, it is respectfully submitted that Ueda does not disclose the use of a "destructible" layer.

Likewise, in numerous locations in the Examiner's Answer Brief, the Examiner refers to the pressure sensitive barrier tape 10 disclosed in the Carey Jr. reference as a "destructible layer." Here again, Carey Jr.'s pressure sensitive barrier tape is not a "destructible" layer. Instead, Carey Jr.'s barrier tape is porous and elastic.

As explained in the Carey Jr. reference, the barrier tape 10 is not positioned over an aperture through which a fastener will ultimately pass. Instead, Carey Jr.'s barrier

tape is positioned over vent holes in the exterior wall of a foam-filled hollow body.

When the hollow body is being filled with insulating foam, air present in the body is pushed out of the body through the vent holes.

Carey Jr.'s barrier tape is deliberately constructed such that it is porous enough to allow the air within the body to escape through the barrier tape covering the vent holes. Also, as clearly illustrated in Figure 3 of Carey Jr., the barrier tape 10 is elastic and deformable. When the foam insulation material presses against the barrier tape 10, as illustrated in Figure 3, the barrier tape bulges outward.

Applicants further note that claim 30 also recites that the destructible layer is formed of a substantially incompressible material. Clearly the sponge rubber layer 51 of Ueda is not substantially incompressible. Likewise, the elastic barrier tape disclosed in Carey Jr., which is constructed so that it is gas permeable and deformable, is also not incompressible. Both the sponge rubber layer 51 in Ueda and Carey Jr.'s barrier tape are compressible and elastic material layers.

For all the above reasons, it is respectfully submitted that none of the applied references, including Ueda and Carey, Jr., disclose or suggest the use of a destructible material layer that is also substantially incompressible, as recited in claim 30. For these reasons alone it is respectfully submitted that claim 30 is allowable. Claims 32 and 33 depend from claim 30 and are allowable for the same reasons.

Moreover, as explained in Appellants' Appeal Brief, the Ueda reference specifically teaches that a layer positioned between a reinforcing plate and a wall of a hollow foam filled body should be highly elastic so that it will not be pierced or broken when a fastener passes through a hole covered by the elastic foam layer. The

Examiner appears to assert that one of ordinary skill in the art would have found it obvious to substitute the barrier tape disclosed in Carey Jr. for the sponge rubber layer disclosed in Ueda. As explained in the Appeal Brief, making this substitution runs counter to the teachings of Ueda. Thus, the references themselves teach away from making such a substitution.

The Examiner has provided no independent reason, based on the teachings of any of the applied prior art references, or based on any knowledge generally available to those of ordinary skill in the art, which would have provided a motivation for substituting Carey Jr.'s barrier tape for the sponge rubber layer disclosed in Ueda. Because the Examiner has not been able to identify any other independent reason for making this substitution, Applicants maintain that it requires the impermissible use of hindsight, in view of Applicants' invention, to find any motivation for replacing Ueda's sponge rubber layer with Carey Jr.'s barrier tape. For these additional reasons, Applicants again respectfully submit that the combination of references is improper, and that the rejection of claims 30, 32 and 33 should be withdrawn.

II. Claims 34, 38 and 39

Claims 34, 38 and 39 were rejected under 35 USC §103(a) over Saunders, in view of Ueda, and further in view of Carey Jr.

Claim 34 also recites a destructible layer positioned between a reinforcing plate and an outer wall of a foam-filled hollow body, wherein the destructible layer is formed of a substantially inelastic material. For all the reasons discussed above, it is respectfully submitted that neither Ueda nor Carey Jr. disclose or suggest a destructible

layer. Further, both Ueda and Carey Jr. utilize layers formed of elastic materials, not inelastic materials as recited in claim 34. For these reasons alone it is respectfully submitted that claim 34 is allowable. Claims 38 and 39 depend from claim 34 and are allowable for the same reasons.

In addition, for all the reasons discussed above, it is respectfully submitted that the combination of Ueda and Carey Jr. is improper. For this additional reason, it is respectfully submitted that the rejection of claims 34, 38 and 39 should be withdrawn.

Respectfully submitted,

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